

Notice of Allowability

Application No.

10/088,340

Examiner

Lorna M. Douyon

Applicant(s)

WEUTHEN ET AL.

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE dated January 21, 2005.
2. ☒ The allowed claim(s) is/are 11-30 renumbered 1-20 respectively.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Lorna M. Douyon
Lorna M. Douyon
Primary Examiner
Art Unit 1751

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 21, 2005 has been entered.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Daniel S. Ortiz on April 18, 2005.

3. The application has been amended as follows:

2.1. In claim 11:

- a) line 5, "and/or" and "thereof" have been deleted, respectively;
- b) line 6, "hydrolysate" has been replaced with --hydrolyzate--.

2.2. In claim 14, line 2, --derivative-- has been added after "protein".

2.3. In claim 15, line 2, --derivative-- has been added after "protein".

2.1. In claim 21:

Art Unit: 1751

- a) line 6, “and/or” and “thereof” have been deleted, respectively;
 - b) line 7, “hydrolysate” has been replaced with --hydrolyzate--.
- 2.2. In claim 24, line 2, --derivative-- has been added after “protein”.
- 2.3. In claim 25, line 2, --derivative-- has been added after “protein”.

STATEMENT OF REASONS FOR ALLOWANCE

4. The following is an examiner’s statement of reasons for allowance:

The claims in their present amended forms have overcome the rejection of claims 21-30 as being anticipated by Marsh et al. (US Patent No. 4,076,800); the rejection of claims 21-24 and 28-30 as being anticipated by Sayers et al. (US Patent No. 3,594,324); and the rejection of claims 25-27 as being unpatentable over Sayers. Neither Marsh nor Sayers teaches a non-enzymatic protein derivative which derivative comprises a condensation product of a hydrolyzate with a fatty acid having from 6-22 carbon atoms. Lang et al. (US Patent No. 6,051,544), the other close prior art of record, is likewise overcome in view of the present amendment and Applicants’ arguments. Even assuming that the instant claims were *prima facie* obvious, the comparative data presented at pages 33 and 34 of the specification shows that detergent compositions of the instant claims comprising anionic surfactant, a non-enzymatic protein derivative which is a condensation product of a hydrolyzate with a fatty acid having from 6-22 carbon atoms; phosphate and a disintegrating agent possess unexpected “soft feel” grade when compared to a similar composition without the non-enzymatic protein derivative. This comparative data is sufficient to rebut any such hypothetical case of *prima facie* obviousness of the claimed

Art Unit: 1751

invention. Accordingly, the claimed invention, as a whole, would not have been obvious to one of ordinary skill in the detergent art.

Inasmuch as the only rejections remaining in the application are the “provisonal” obviousness-type double patenting rejection over copending application 10/130, 738 in view of Lang and copending application 10/130,841 in view of Lang, and that the present application has the earlier filing date with the other two copending applications, the “provisonal” obviousness-type double patenting rejection over the above copending applications are withdrawn as required in MPEP 804I.B.

The prior art made of record and not relied upon is considered pertinent to applicants’ disclosure. The reference is considered cumulative to or less material than those discussed above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lorna M. Douyon
Lorna M. Douyon
Primary Examiner
Art Unit 1751